



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,491	06/26/2003	Robert G. Hauser	2852	5622

7590 04/19/2006

Beck & Tysver, P.L.L.C.
Suite 100
2900 Thomas Avenue S.
Minneapolis, MN 55416

EXAMINER

JOHNSON, SHEVON ELIZABETH

ART UNIT	PAPER NUMBER
----------	--------------

3766

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/606,491	Applicant(s) HAUSER, ROBERT G.	
	Examiner Shevon E. Johnson	Art Unit 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8, 9, 11-13 is/are rejected.
- 7) ☒ Claim(s) 4, 7 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

1. Claims 8-13 are objected to because of the following informalities: ICP, IPG, LAA, LA, RA, LV, RV, CS, RAA should be written as intra cardiac pulse generators (ICP), Implanted Pulse Generator (IPG), left atrial appendage (LAA), left atrium (LA), right atrium (RA), left ventricle (LV), right ventricle (RV), coronary sinus (CS), right atrial appendage (RAA). Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-3, 5, 6, 8, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Pappu (U.S. Patent No. 6,941,169).**

In regards to claim 1, Pappu discloses a device comprising: a hermetic housing 12, 14 containing, a power source 16, 116, 312, a pacing circuit module 12, 112; a resilient deployable shield 28 adapted to conform to said housing during insertion and deployable to an expanded shape that engages and anchors said housing in an anatomic location inside the heart (col. 4, lines 13-17 and 40-51; figs. 1-9).

In regards to claims 2 and 3, Pappu discloses a device wherein said shield is made from a Nitinol or Dacron mesh (col. 4, lines 54-55).

In regards to claim 5, Pappu discloses a device wherein said power source is a rechargeable battery (col. 6, lines 46-59).

In regards to claim 6, Pappu discloses a device further comprising; an electrode site located at the distal tip of said housing for sensing and pacing heart tissue (col. 3, lines 14-17).

In regards to claim 8, Pappu discloses a method of treating the heart comprising: inserting an ICP into the LAA; monitoring the atrial beat in the LAA; setting a timing interval based on the sensed

Art Unit: 3766

depolarization of the atrium based on the signal in the LAA; programming the ICP to a pacing modality that supplies electrical energy to the LAA in response to a detected atrial beat measured in the LAA (col. 4, lines 13-36).

In regards to claim 9, Pappu discloses a method further comprising: placing at least one electrode in a chamber selected from the group; LA, RA, LV, RV, and CS; coupling said electrode to said ICP; providing a pacing therapy from said ICP and said electrode (col. 5, lines 39-50).

4. Claims 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Hill (U.S. Patent Pub. 2003/0083700).

In regards to claims 11-13, Hill discloses a method of treating a cardiac arrhythmia comprising the steps: sensing an atrial depolarization from an electrode in the RA or RAA; sensing the same depolarization from an electrode in LAA or RAA; determine the conduction sequence and time interval between said measurements; pacing a chamber if said measurement indicates a "wide" QRS or atrial beat (pgs. 1-4, [0002-0025]; pg. 6, [0048-0054] ; fig. 1).

Allowable Subject Matter

5. Claims 4, 7, and 10 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shevon Johnson whose telephone number is (571) 272-2010. The examiner can normally be reached on M-F (8 a.m. - 4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3766

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shevon Johnson
Art Unit 3766


Robert Pezzuto
Supervisory Patent Examiner
Art Unit 3766